

REMARKS

This paper is submitted in response to the Office Action mailed on June 6, 2005. Claims 1, 5 and 8 have been amended. Claims 1-8 remain in the application. In view of the foregoing amendments, as well as the following remarks, Applicants respectfully submit that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Claims 1-3 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,730,491 to Carlsen et al. ("Carlsen") in view of U.S. Patent No. 4,996,995 to Kojima ("Kojima") in further view of U.S. Published Patent Application No. 2005/0067952 to Fechter et al. ("Fechter"). Claims 4-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carlsen in view of U.S. Patent No. 5,440,458 to Volk ("Volk"). Although Applicants respectfully traverse these rejections, Applicants have amended claims 1 and 8 to more clearly define the invention over the cited prior art. Applicants have also amended claim 5. Accordingly, Applicants submit that the cited references alone or in combination with each other do not teach or suggest the elements recited in amended claims 1, 5 and 8 and the rejections should be withdrawn.

In regards to independent claims 1 and 8, the Examiner asserts that Carlsen discloses a support 118 and an ashtray 201 coupled to the support and adapted to store one or more items, the ashtray comprising a compartment body 44' defining a cavity (Fig. 9) adapted to store the one or more items and having an opening (Fig. 10) for gaining access to the cavity, the compartment body including a first connecting member 206 integrally formed therein; and a cover 203 including a second

connecting member 205 integrally formed therein, the first connecting member cooperating with the second connecting member to couple the cover to the compartment body, the cover being moveable between an open position, wherein the cavity is accessible through the opening, and a closed position, wherein the cover overlies the opening. The Examiner then applies the teaching of Kojima for the proposition of a lamp for illumination. The Examiner further applies Fechter as teaching a molded electroluminescent lamp to conclude that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Carlsen, to include a molded electroluminescent lamp for illumination as disclosed by Kojima and Fechter. The Applicants respectfully disagree. Specifically, there is no motivation to combine the references in the manner suggested by the Examiner and the Examiner is using hindsight reconstruction to purportedly arrive at the claimed invention.

There is no teaching or suggestion of modifying Carlsen according to the disclosure of Kojima. On review of Carlsen, there is no teaching or suggestion of including a light in the console assembly for illuminating a cavity of the ashtray when the lid is in an open position. There is no mention of a light at all in Carlsen. There is also no teaching or suggestion in Kojima that the incandescent lamp as disclosed therein may be used for illuminating ashtray assembly inserts for automotive consoles, such as that shown in Carlsen. Kojima discloses a stand-alone ashtray having a main body (20) and a lid member (30) hingedly attached to the main body (20). The lid member (30) includes an incandescent lamp (61) and a light switch (62) for turning the

lamp (62) on and off, wherein the lamp and switch are both disposed in the top or upper surface of the lid member (30).

Contrary to the Examiner's assertions, there are several good reasons why one of ordinary skill in the art would not modify Carlsen in view of the disclosure of Kojima. First, the lid member (30) disclosed by Kojima is rather large and complex in order to accommodate the incandescent lamp (61) as well as any circuitry necessary for operating the lamp (61). Such a bulky ashtray lid would not be desirable for automotive applications as it would detract from the aesthetics of the automotive interior. Moreover, placement of the incandescent lamp on the top surface of the lid would also not be desirable as a vehicle occupant might inadvertently break the lamp or be exposed to the heat generated by the incandescent lamp.

In addition, one of ordinary skill in the art would not make the modification suggested by the Examiner as it would lead to an inoperative device. As shown in Figs. 10-15 of Carlsen, when the lower portion (26) of console assembly (22) is rotated, the cover (203) to the ashtray rotates relative to the ashtray housing (44'). As the cover (203) rotates, the cover (203) becomes concealed behind a wall that forms opening (44). Thus, as shown in Figs. 11 and 12, when the cover (203) is open, it would be nearly impossible for any incandescent lamp on the top of cover (203) to illuminate the ashtray housing (44'). Consequently, one of ordinary skill in the art would not make the modification that the Examiner argues as obvious as such a modification would be inoperative for its intended purpose.

In addition to the above, there is also no teaching or suggestion of modifying the combination of Carlsen and Kojima according to the disclosure of

Flechter. As stated above, Carlsen makes no mention of a lamp or light source and Kojima makes no mention of using an electroluminescent lamp in lieu of the incandescent lamp. The fact that the prior art could be modified in the way suggested in the rejection is not determinative of a proper obviousness-type of rejection. The prior art must suggest the desirability of making the modification. There is no such teaching or suggestion in Carlsen or Kojima.

Moreover, there is no teaching or suggestion for applying the electroluminescent lamp of Fletcher to the compartment body or the cover of an automotive ashtray. While Fletcher discloses using an electroluminescent panel for cell phones and instrument clusters, there is no mention of ashtrays. Specifically, there is no teaching or suggestion of an "electroluminescent lamp molded to one of said compartment body and said cover and adapted to illuminate said cavity when said cover is in the open position," as specifically recited in claims 1 and 8. In short, one of ordinary skill in the art reading the combination of references cited by the Examiner would not arrive at the claimed invention as there is no teaching or suggestion to combine the teachings in the manner suggested by the Examiner. For this reason, the rejection of independent claims 1 and 8 is improper and should be withdrawn.

The rejection is further improper because the Examiner is using impermissible hindsight reconstruction to arrive at the claimed invention. The Examiner is using bits and pieces of the prior art and combining them to arrive at the claimed invention. One such indication of this pick-and-choose approach is that the Examiner has applied three different references to reject each of claims 1 and 8. One reference teaches an ashtray having a lid. Another reference teaches an incandescent light in an

ashtray cover having a translucent outer panel. Yet another reference teaches an electroluminescent lamp used on items other than ashtrays or even any other structures that involve a compartment capable of being selectively accessed through a cover. These three references are combined without the proper teaching or suggestion to arrive at the claimed invention. Without this motivation, combining the references in the manner suggested by the Examiner is indicative of using the Applicants' application as a blueprint for piecing together the prior art references to purportedly arrive at the claimed invention. This is clearly impermissible. For this additional reason, the rejection of independent claims 1 and 8 is improper and should be withdrawn.

Nevertheless, in order to move prosecution forward, claims 1 and 8 have been amended to recite that the electroluminescent lamp includes "an illumination surface facing said cavity when said cover is in the closed position." As mentioned above, Carlsen makes no mention of a light and Fechter does not teach an ashtray or even any article having a compartment and a cover through which the compartment may be accessed. Additionally, Kojima teaches an ashtray such that when the lid member is in the closed position, the incandescent lamp faces away from the tray, not toward the tray as is specifically recited in amended claims 1 and 8. Accordingly, for this additional reason, Applicants submit that the references of Carlsen, Kojima and Fechter do not teach or suggest the combination of elements recited in amended independent claims 1 and 8 and the rejection should be withdrawn.

Moreover, as claims 2-4 and 6-7 depend from allowable independent claim 1 and further as each of these claims recites a combination of elements not

taught or suggested by the cited references, Applicants submit that these claims are allowable as well.

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Carlsen in view of Volk. Claim 5 has been amended to be in independent form and includes the subject matter of the claims from which it depends. The rejection of claim 5 is improper because neither Carlsen or Volk teach or suggest a first electrical connector coupled to the compartment body, and a second electrical connector coupled to a support of a trim assembly such that the first and second electrical connectors are electrically coupled when the ashtray is coupled to the support. The Examiner improperly identifies connections 42, 44 as "first and second connectors" as recited in claim 5. Connections 42, 44 are stationary wires that form part of the circuit. They are not connectors on different physical structures (i.e., compartment body and trim assembly support) such that the circuit is open when the structures are not coupled to each other and the circuit is closed when the structures are coupled to each other. The Examiner has misinterpreted the teaching of Volk and improperly applied it to reject claim 5. Accordingly, Applicants submit that Volk, either alone or in combination with Carlsen, does not teach or suggest the combination of elements recited in amended independent claim 5 and the rejection should be withdrawn.

Conclusion

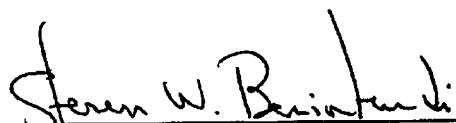
In view of the foregoing response, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the

Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Applicants do not believe that any fees are due in connection with this response. However, if such petition is due or any fees are necessary to complete this communication, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

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